competitive services to the most intrusive regulatory constraints, and limits the ability of LECs to reduce prices to competitive levels.[61] The result is to deny consumers the benefits of true competition.

To correct this problem, the Commission should remove services from price regulation as they become competitive -- a feature found in the Commission's price cap rules for AT&T and cable,[62] and at the state level.[63] The appropriate test for determining when a service is competitive should focus on the availability of alternatives for a particular service.[64] This is so because it is the availability of alternatives which prevents the exercise of market power; with alternatives available,

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[61] For example, high capacity access services (DS1 and DS3) are subject not only to aggregate limits that apply to all services in the same basket, but also are subject to additional service specific pricing constraints. LEC Price Cap Order at ¶ 203.

[62] Implementation of Sections of the 1992 Cable Act - Rate Regulation, 8 FCC Rcd 5631, at ¶¶ 16-49 (providing that competitive cable services are exempt from rate regulation); Competition in the Interstate Interexchange Marketplace, 6 FCC Rcd 5880 (1991) (streamlining regulation for certain AT&T business services), id., 7 FCC Rcd 2677 (1992) (streamlining regulation for 800 and other in-bound services).

[63] See, e.g., N.J. Rev. Stat. Ann. § 48:2-21.17,-19; Va. Code Ann. § 56-235.5(F); Del. Code Ann., Title 26, § 709; 66 Pa. Comp. Stat. Ann. § 3004(D)(3); W. Va. Code § 24-2-3(c).; Order No. 70324, Application of The Chesapeake and Potomac Telephone Co. of Md. to Continue and Revise The Alternative Regulation Plan, Case No. 8462 (Jan. 22, 1993); see also, e.g., Mich. Comp. Laws Ann. § 484-2101.

[64] Harris Study at 29-30.

attempts to increase price or reduce output will merely encourage customers to switch service providers.[65]

Several interstate services are fully competitive today and should be removed from price regulation immediately. One example is high capacity (DS1 and DS3) access service -- both for special access and the transport portion of switched. In Bell Atlantic's region, for example, two thirds of the high capacity access demand comes from areas that are already served by competing providers.[66] As a result, Bell Atlantic has consistently priced its high capacity access services below the level allowed by the price cap rules[67] -- a fact which the Commission has recognized demonstrates the presence of competition.[68]

A second example includes services that are currently part of the interexchange basket, including interstate intralata toll and interstate interlata corridor services, as well as

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[65] Alternative measures for the presence of competition are inadequate. For example, market share is not an accurate gauge of competition. Harris Study at 29-30. As an initial matter, market share cannot be accurately measured because competitors of the LECs are not required to disclose how much traffic they carry or where. But more fundamentally, it is the availability of competitive alternatives to customers, and not the number actually using them that constrains market power.

[66] Beville Aff. at ¶ 34; see also Harris Aff. at App. B; Huber Study at 21.

[67] Beville Aff. at ¶ 36.

[68] See Price Cap Performance Review For AT&T, 7 FCC Rcd 5322, ¶ 16 (1992); see also Revisions to Price Cap Rules For AT&T, 8 FCC Rcd 5205, ¶ 3 (1993).

related operator services.[69] In fact, these services face even greater competition than high capacity access -- every customer of these services has a competitive alternative.[70] Bell Atlantic also has consistently priced these services below the level allowed by the price cap rules.[71]

A third example is video dialtone, which will face competition in nearly every instance from the first day it is introduced. In fact, cable TV is already available to 97 percent of U.S. homes,[72] and wireless services such as direct broadcast satellite ("DBS") will soon be available to 100 percent of homes in the continental U.S.[73] And these competitors will be unregulated; DBS is already free of rate or price regulation and cable will become so when it faces a video dialtone or other multichannel competitor.[74] It would be bizarre to free the entrenched cable incumbent from regulatory constraints, but leave

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[69] The related operator services include customer dialed calling card station, operator station, person-to-person, directory assistance charge, and directory assistance service call. Beville Aff. at ¶ 25.

[70] Id.

[71] Id. at ¶ 30.

[72] NCTA, Cable Television Developments at 1-A (Apr. 1994).

[73] See "The ABC's of DBS," Broadcasting and Cable at 38 (Dec. 6, 1993).

[74] Implementation of Sections of the 1992 Cable Act - Rate Regulation, 8 FCC Rcd 5631, at ¶¶ 20-21 (Competition from video dialtone competitor will exempt cable service from rate regulation).

the new entrant video dialtone provider subject to extensive rate or price regulation.

Finally, for any tariff filings required by the Communications Act, the requirements for all providers should be identical. Any other result would artificially favor one competitor over another, and deny consumers the full benefits of competition. As a result, to the extent that CAPs and others are allowed to file tariffs providing only a range of rates, to file on one day's notice, or to enter into individual contracts,[75] LECs must be permitted to do the same.

B. The Commission Should Remove Discretionary and New Services From Regulation

Under the current price cap plan, new and discretionary services are subject to the full range of regulatory constraints that apply to all other services -- and more. In fact, new services are actually singled out for some of the most burdensome requirements. These range from lengthy tariff reviews with intrusive and competitively sensitive cost support requirements for all new services,[76] to a lengthy waiver process for new switched access services that do not fit snugly into an archaic

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[75] See Tariff Requirements for Non-Dominant Carriers, 8 FCC Rcd 6765, ¶ 3 (1993).

[76] LEC Price Cap Order at ¶ 321.

rate structure prescribed over 10 years ago during the days of a monolithic AT&T.[77]

These rules limit the ability of LECs to respond to the demands of the marketplace, and undermine their incentive to provide innovative services that consumers want.[78] The solution is to remove new and discretionary services from price regulation -- an approach used in the Commission's own rules for cable,[79] and at the state level.[80]

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[77] 47 C.F.R. § 69.101, et seq. The Part 69 waiver process alone results in delays in the introduction of new services of up to a year a more, only to be compounded by the additional delay to go through a lengthy tariff process. See, e.g., New York Telephone Company. 6 FCC Rcd 1588 (1991) (more than 13 months to obtain a waiver); Southwestern Bell Telephone Company, 6 FCC Rcd 6095 (1991) (approximately 16 months to obtain a waiver); Bell Atlantic Telephone Companies, 7 FCC Rcd 2955 (1992) (over 11 months to obtain a waiver).

[78] Harris Study at 23-24, 26-29; accord NPRM at ¶ 79 ("[T]he current rules do generate delay and increase the costs of introducing new services. They may also inhibit the LECs' ability to compete with services offered by CAPs.").

[79] For example, the cable rules exempt per channel and pay-per-view services from regulation entirely -- presumably on the theory that these services are discretionary. Implementation of Sections of the Cable Act of 1992 - Rate Regulation, 8 FCC Rcd 5631, ¶ 324. They also contain provisions to relieve new service offerings of many of the regulatory constraints that otherwise apply to basic and enhanced basic tiers of service in order to provide cable the incentives to develop new and innovative offerings. Id., MM Dkt 93-215, Report and Order at ¶ 295-304 (rel. Mar. 30, 1994).

[80] See, e.g., N.D. Cent. Code § 49-21-01.3 (establishing price caps for essential services only); Del. Code Ann., Title 26, §§ 706(b), 708 (establishing streamlined regulation and increased pricing flexibility for discretionary services).

Continued regulation of these services is unnecessary. Discretionary services by definition are not essential either to consumers or competitors.[81] Prices for these services are constrained by market forces since consumers can simply elect not to buy them, and competitive entry will occur if prices are set too high. Likewise, new services are almost uniformly discretionary, and face the additional hurdle of not being a known commodity in the marketplace. This further constrains the prices for these services.[82]

Moreover, continued regulation of these services is counter productive. The current rules deter LECs from providing discretionary and new services; they create inordinate delays and unnecessary burdens, and impose artificial limits on the return that can be earned on these risky services.[83] In contrast, removing these services from regulation will eliminate unnecessary regulatory hurdles, and place the full risk of

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[81] For example, among the services that would qualify as discretionary are Caller ID or other custom calling features that may be offered on an interstate basis, see Rules and Policies Regarding Calling Number Identification Service - Caller ID, CC Dkt 91-281, Report and Order and FNPRM at ¶ 3 (rel. Mar. 29, 1994).

[82] The LECs cannot make money off a new service unless it is accepted in the marketplace, and pricing new services too high would prevent this from occurring. As a result, LECs have every incentive to price their new services at a reasonable level in order to obtain consumer acceptance.

[83] Harris Study at 23-24.

unsuccessful services on shareholders in exchange for receiving the benefits of successful ones.[84] This will provide LECs the same incentives as a competitive market to develop and provide innovative services that consumers want.[85]

As in the case of competitive services, for any tariffs required by the Communications Act, the filing requirements for discretionary and new services should be the same as those for other providers.[86]

C. The Commission Should Increase Flexibility For Services Still Subject to Regulation

While the competitive pressures on some services are especially intense already, these pressures are intensifying across all parts of the telecommunications spectrum. No services are immune, and new entrants are materializing at a remarkable pace. Under these circumstances, current rules must be modified to give all providers sufficient flexibility to truly compete. Two areas are most critically in need of reform.

First, added pricing flexibility is needed to change rates quickly in response to competitive pressures. The current rules limit the price changes that can be made without triggering lengthy tariff proceedings to only plus or minus 5 percent, and require LECs to give competitors 14 days advance notice of price

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[84] Harris Study at 23-24.

[85] Id.

[86] See supra note 75.

changes.[87] Ironically, the principal effect of these rules is to limit the ability of LECs to reduce prices. In a competitive market, however, the only limit on price reductions is that prices be set at or above incremental cost, and competitors are given no advance notice of price changes.[88] Adopting the same rules here will foster economic efficiency and provide the greatest benefit to consumers.[89]

As a result, the current rules should be modified to give the most streamlined review to all price reductions, subject only to the requirement that LEC prices remain above incremental cost. The 14 day review period in the current rules also should be changed to give LECs the same ability as their competitors to implement these price reductions on one day's notice.[90] In addition, the range of price changes subject to the most streamlined review should be extended to at least cover increases of 7 percent or less.[91]

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[87] LEC Price Cap Order at 12, 204, 285.

[88] In fact, the Department of Justice has recognized that providing advance notice of rate changes chills competition, and has brought suit in some instances to prevent this very practice. United States v. Airline Tariff Publishing Co., 836 F. Supp. 9 (D.D.C. 1993). Yet the LECs are required by Commission rules to give their competitors extensive advance notice of impending rate changes.

[89] Id.

[90] See supra note 75.

[91] This slight increase would give LECs greater flexibility to quickly implement price changes as competition intensifies, while preserving the Commission's ultimate ability to oversee the reasonableness of these rates.

Second, regardless of whether the Commission removes new services from ongoing price regulation, the regulatory hurdles that must be cleared to introduce new services must be minimized. Most importantly, this means eliminating the existing Part 69 waiver process that produces delays of a year or more to introduce new switched access services[92] -- delays that are compounded because the tariff process cannot begin until the waiver is granted.

It also means further streamlining the tariff filing requirements for new services.[93] While competitors have instant access to the marketplace, these rules impose a minimum 45 day delay on LECs -- only to be followed by still further proceedings that are routinely triggered by the efforts of competitors to game the regulatory process. To resolve this problem, LECs should have the same flexibility as their competitors to quickly introduce new services -- including filing new service tariffs on one day's notice.[94]

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[92] See supra note 77. Specifically, the Commission should modify its rules to eliminate the codification of any particular rate structure, let alone a rate structure prescribed over 10 years ago. 47 C.F.R. § 69.101, et seq.

[93] Congress has adopted an affirmative national policy "to encourage the provision of new technologies and services to the public." 47 U.S.C. § 157. Toward this end, it has imposed a statutory 12 month limit on any Commission proceedings to approve new service offerings. Id.

[94] This does not mean the Commission would lose authority to review these rates, any more than it does for the many tariffs that go into effect today subject to an accounting order. In the interim, however, customers would benefit by receiving the new services that they want.

D. The Commission Should Promote Parity By Requiring AT&T To Give Equal Treatment To Access Reductions From All Providers

Under AT&T's price cap plan, it is obligated to pass through at least a portion of any reductions in the access charges it pays to price cap LECs.[95] This rule does not apply to access reductions that occur when AT&T switches to a CAP or to its own bypass facilities, nor does it apply when a CAP lowers rates for services AT&T is already using.

As the Commission itself recognizes, the result of this disparity is to give AT&T an artificial incentive to use CAP services instead of those of a LEC.[96] Since most AT&T services subject to price caps use switched access, this is especially true now that the Commission has ordered LECs to provide switched access interconnection to all providers, including AT&T itself. In fact, the distortion this creates is so severe that a LEC's

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[95] Since divestiture, AT&T has passed through about 80 percent of access charge reductions from the LECs, and pocketed the rest. William E. Taylor, Effects of Competitive Entry in the U.S. Interstate Toll Markets: An Update, at 1 and Exh. 1, Table 1 (May 28, 1992), appended to Reply Comments of Bell Atlantic, Price Cap Performance Review for AT&T, CC Dkt 92-134 (Oct. 5, 1992).

[96] See NPRM at ¶ 86.

price reduction would have to be up to five times the reduction from bypass in order to be competitive.[97]

This distortion will only be eliminated if AT&T is required to give equal treatment to access charge reductions from all providers, including itself.

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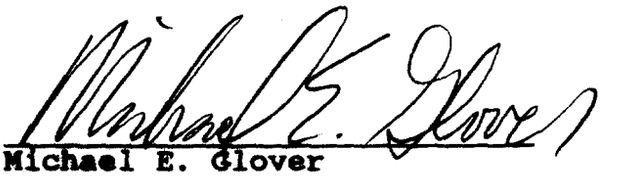
[97] This can be seen by examining data in the 1993 Interstate Rate of Return Report for AT&T (filed Mar. 31, 1994). If LEC access charges declined by $100 million, and AT&T passed through only 80% as a revenue reduction, its net earnings would increase by $20 million to $1.82 billion and its rate of return would increase from 13.49% to 13.64%. But if AT&T received the same $100 million reduction by switching to another provider, and passed none through, its net revenue would increase by the full $100 million to $1.9 billion, and its rate of return would jump to 14.24%. LECs would have to reduce their access charges to AT&T by $500 million to generate the same result.

CONCLUSION

The Commission should modify the current price cap plan in the respects described above.

Respectfully submitted,



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May 9, 1994

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
Price Cap Performance Review for Local Exchange Carriers	)	**CC Docket 94-1**
Notice of Proposed Rulemaking	)	

AFFIDAVIT OF RICHARD E. BEVILLE
IN SUPPORT OF COMMENTS OF BELL ATLANTIC

1. My name is Richard E. Beville. I am currently employed by Bell Atlantic Network Services, Inc. as Assistant Vice President - Network Competitive Response. I lead a team that monitors, anticipates and responds to the competition faced by the Bell Atlantic Telephone Companies ("Bell Atlantic").[1] I submit this affidavit concerning competition faced by Bell Atlantic in general support of Bell Atlantic's proposals for modification of the Commission's price cap regulations and specifically to seek removal of those services that no longer require price regulation.

2. In this proceeding, Bell Atlantic seeks authority to remove from price regulation services that already face significant competition and to remove additional services from regulation as they become fully competitive. While Bell Atlantic faces

[1] The Bell Atlantic telephone companies are Bell Atlantic - Pennsylvania, Inc.; Bell Atlantic - Delaware, Inc.; Bell Atlantic - Washington, D.C., Inc.; Bell Atlantic - West Virginia, Inc.; Bell Atlantic - Maryland, Inc.; Bell Atlantic - New Jersey, Inc.; and Bell Atlantic - Virginia, Inc.

increasing competition for *all* of its services, three categories of services face especially intense competition and should be removed from price cap regulation immediately. These include: a) interstate intraLATA toll and corridor interexchange services; b) high capacity (DS1 and DS3) access services; and c) video dialtone services. Removing these services from price caps will provide Bell Atlantic with the flexibility it needs to compete, and will provide customers with the benefits and protections of fair competition.

I. BELL ATLANTIC FACES COMPETITION IN ITS REGION.

3. Competitors have already made substantial inroads in Bell Atlantic's service territory, and interstate access services have been a principal focus of their efforts. The entry of competitors into interstate access services has been facilitated by the concentration of most major customers into a relatively few urban areas. The mid-Atlantic region served by Bell Atlantic is particularly concentrated -- 76% of Bell Atlantic's interstate access revenues come from just 25% of its wire centers. This concentration allows new entrants to compete for a large portion of Bell Atlantic's customers with only a fraction of the investment made by Bell Atlantic, which is committed to provide service throughout its territory.

4. Most of Bell Atlantic's competitors for interstate access are well funded companies with a substantial existing customer base. These competitors include Competitive Access Providers ("CAPs"); cable companies ("CATV"); Interexchange

Carriers ("IXCs") and Regional Bell Operating Companies ("RBOCs"); electric utilities; and the wireless industry.

A. Competitive Access Providers

5. CAPs compete today with Bell Atlantic in the interstate arena primarily by providing special access, private line, and switched access services, including high capacity data services. CAPs deploy fiber optic networks through urban areas, business parks and nearby suburbs across the country. The industry also is expanding rapidly, both in terms of geographic coverage and the range of services provided. CAPs did not exist in 1982. Today, CAPs vigorously compete in every state and in every major urban business center in the Bell Atlantic region.[2]

6. The CAP systems have enormous amounts of excess capacity. No more than 10 percent of CAP fiber capacity is actually being used to carry traffic. Thus, a single CAP carrying five percent of access traffic from an urban business district could readily expand to 50 percent, at relatively little increase in cost.

7. The major CAPs in the Bell Atlantic region are all well financed and are expanding their businesses as demonstrated in the following examples:

a. Metropolitan Fiber Systems Communications

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[2] Unlike Bell Atlantic, CAPs and other competitors have little or no informational reporting requirements. Because Bell Atlantic's information on its competitors' networks and markets is limited to public information, such information inevitably understates the growth of competitive alternatives, both in number and scope.

Company, Inc.'s ("MFS") strategic goal is to "become the primary provider of telecommunications services to business and government end users nationwide."[3] According to a Business Week report, MFS has a total market value of nearly two *billion* dollars.[4]

MFS has a presence in every state in the Bell Atlantic region. It has deployed over 17,000 miles of fiber throughout the portions of Bell Atlantic's region that contain the highest concentration of lucrative business customers. For example, attached as Exhibit 1 hereto is a map of MFS's network in Washington, D.C. and Northern Virginia.[5]

MFS also is expanding its coverage by forming alliances with companies in other industries. In New Jersey, for example, MFS has formed an alliance with MH Lightnet to expand its existing network. MH Lightnet is owned by Maclean Hunter, a holding company that, among other things, owns cable facilities in New Jersey used by MH Lightnet. Maclean Hunter, in turn, is owned by Rogers Communications, Canada's leading cable company.

In addition, MFS is expanding the scope of its service offerings. MFS has filed with local commissions to be a local service provider and/or reseller in Washington, Delaware,

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[3] MFS Communications Company, Inc. Prospectus for the offering of 4,000,000 shares common stock at 3 (subject to completion September 1, 1993)(hereinafter, "MFS Prospectus").

[4] Business Week at 69 (March 28, 1994).

[5] This map does not include MFS's most recent expansion activities that were reported in the MFS prospectus, and therefore understates the total network.

Maryland, West Virginia and Pennsylvania.[6] In fact, the Maryland Public Service Commission recently approved MFS's application and authorized it to provide local exchange and interexchange service in that state, both as a reseller and a co-carrier.[7] According to MFS's president, because of that decision "MFS will be able to offer services to even the smallest businesses in Maryland."[8]

b. Eastern TeleLogic Corp. offers private line and switched services in the Philadelphia and Delaware Valley region. Comcast Corp., a Philadelphia headquartered cable television, cellular communications and Specialized Mobile Radio company, purchased 51% of Eastern TeleLogic in October 1992. Comcast had 1992 revenues of $900 million and an operating cash flow of $397 million. Five venture capital firms own the remaining 49% of Eastern TeleLogic.

Eastern TeleLogic already serves approximately 250 business locations in the Philadelphia area and claims the "largest fiber optic network in the Philadelphia area."[9] Eastern TeleLogic also serves New Jersey and has begun to expand its network into Delaware.

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[6] MFS is already certified as a reseller in Pennsylvania.

[7] *In re Application of MFS Intelenet of Maryland, Inc.*, Case No. 8584 (order issued April 25, 1994).

[8] "Bell Atlantic Gets Competitor for Business Service," Baltimore Sun, April 27, 1994 at A-1.

[9] Bell Atlantic-Pennsylvania Chapter 30 Filing, Commonwealth of Pennsylvania Public Utility Commission Docket No. P-00930715, Feb. 8, 1994, Tr. at 2055-57 (Testimony of Gary Lasher).

c. Penn Access Corporation ("Penn Access"), a Pittsburgh centered CAP, has a goal "to control as much as 50 percent of the current commercial market for local telephone and data transmission services."[10] Digital Direct, a subsidiary of Telecommunications, Inc. ("TCI"), acquired Penn Access in May 1993 for approximately $10 million. TCI is the largest cable TV company in the United States with 1993 annual revenues of four billion dollars. Penn Access already has nine fiber loops serving customers and reaches all the major business centers in the Pittsburgh area. In addition Penn Access uses the facilities of the local Pittsburgh power utility, Duquesne Light Co.

d. Teleport Communications Group ("Teleport") serves as a telecommunications beachhead for the cable industry. It is owned by five large CATV companies: TCI, Time Warner Entertainment Inc., Comcast Corp., Continental Cablevision Inc. ("Continental") and Cox Cable Companies ("Cox"). Teleport provides an array of competitive services in Northern New Jersey. Cox Fibernet, a CAP that is affiliated with Teleport's network, operates in the Tidewater area of Virginia and shares certain facilities with Cox Cable Television.

e. Local Area Telecommunications, Inc. ("LOCATE") has a strategy that is significantly different from that of the other CAPs. Rather than a fiber based service, LOCATE intends to become a wireless telephone company by combining digital microwave

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[10] Pittsburgh Business Times and Journal, June 14, 1993 at 1 (quoting a Penn Access Vice President).

with a Personal Communications Network ("PCN"). In December 1992, LOCATE acquired Metromedia Paging, the second largest paging company in the United States from Southwestern Bell for $300 million and set up a new, public subsidiary, Mobile Media Corp., for its paging division. LOCATE currently provides access service through its existing microwave network. LOCATE has facilities in the metropolitan areas of Philadelphia, Pittsburgh, Baltimore, Northern New Jersey, Wilmington and Washington, D.C.

f. ValleyNet provides high capacity fiber services to locations that normally would not have a CAP network. It is a partnership of five different local telephone companies that connected their existing fiber backbone networks. It has a 510 mile fiber network that stretches from Johnson City Tennessee, through Virginia, West Virginia, and Maryland to Pennsylvania. ValleyNet has recently added an extension of its network that runs from Wytheville, Virginia through Beckley and Charleston, West Virginia.

g. Virginia Metrotel. Virginia Metrotel is a joint venture among three Virginia independent telephone companies. It is building a fiber optic network in Richmond, Roanoke/Lynchburg, and Norfolk and has received certification to provide service. Metrotel's goal is to be the number one access provider in that area.[11]

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[11] "SCC Allows Partnership to Connect Calls," Richmond Times-Dispatch, April 26, 1994 at C-8.

8. Further, the Commission's collocation orders[12] have promoted expansion of CAP competition. Switched and special collocation -- which will permit CAPs to terminate their own access transmission facilities at local exchange company ("LEC") central offices -- allows CAPs to expand their network reach without building plant to their customer premises. In fact, MFS has stated that, as a result of the collocation rulings, it "will be able to offer interstate special and switched access transport services to virtually every business and government end user in the Metropolitan areas which the Company elects to serve."[13]

9. With further physical expansion of their networks into residential areas, and with the addition of further switching capability, CAPs have the ability to become providers of a full range of local access and exchange services. This capability is enhanced by CAPs' ability to collocate in the LEC's central office, and it is further enhanced by CAPs' existing relationships with interexchange carriers and cable companies.

B. Cable Companies

10. Cable companies have existing wire-based networks that pass nearly every home and business in the Bell Atlantic region. Cable companies have much of the physical plant required to provide telephony services, and cable companies already have

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[12] ***Expanded Interconnection With Local Telephone Company Facilities***, 7 FCC Rcd. 7369 (1992)(special access collocation order), *on recon.*, 8 FCC Rcd. 1741, ***further proceedings***, 8 FCC Rcd. 7374 (1993)(switched access collocation order).

[13] MFS Prospectus at 4-5.

established relationships with residential customers. It is clear from existing competition, as well as industry pronouncements, that CATV providers intend to offer competition for a wide range of telephony services. For example, according to Cox Cable's vice president, Cox has "the platform in place" to provide high capacity data lines, local area networks and other telephony services.[14]

11. Within the Bell Atlantic region, 66% of households within the Bell Atlantic region subscribe to CATV, and CATV wires pass almost every home in the region. Thus, the CATV industry has a subscriber base of more than eight million customers spread throughout every state in the region, and could potentially serve many more.

12. TCI, Cox Cable, Comcast, and Jones Intercable, Inc. -- all of which have a presence in the Bell Atlantic region -- are currently offering cable telephony in the United Kingdom. British cable companies serve approximately a quarter of a million households with telephony.[15] According to Brian Roberts, President of Comcast: "Two-thirds of the households taking our cable service in the U.K. are also taking our telephone service. We find local exchange competition to be viable."[16] The experience these

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[14] *In The Matter of Investigating Telephone Regulatory Methods Pursuant to Virginia Code § 56-235.5*, Commonwealth of Virginia, State Corporation Commission, April 28, 1994, Tr. at 306 (Testimony of Franklin Bowers).

[15] "The Enduring Myth of the Local Bottleneck," March 14, 1994 at 24.

[16] "Brian Roberts: Stretching Comcast's Reach Through New Technology," Broadcasting and Cable, August 2, 1993 at 31.

companies gain in Britain will prove invaluable in the United States markets, where cable passes far more homes than in Britain, and many more of those homes subscribe to cable.

13. Cable companies have already begun using their facilities in the Bell Atlantic region to provide telephone competition. In addition to Cox Fibernet, which uses Cox cable facilities, AlterNet, Inc. is a CAP operated by Adelphia Communications and Continental Cablevision. AlterNet has recently been certified by the Virginia Commission and will operate over Continental's facilities in Richmond. Monmouth Cablevision, Adelphia Cable, and Comcast Cable Communications have started a joint venture in central New Jersey to set-up a fiber interconnection to provide access services.

14. In addition, cable companies now own a majority interest in key CAP competitors in the Bell Atlantic region or have been purchased by a CAP. For example:

- Comcast owns 51% of Eastern TeleLogic.
- Cox, TCI, Comcast, Time Warner and Continental own Teleport.
- Kiewit Sons Inc., the parent company of MFS, acquired a controlling interest in C-Tec, a holding company which owns cable subsidiaries.
- Rogers Communications/Maclean Hunter owns M.H. Lightnet.

C. **Interexchange Carriers and Other RBOCs**

15. The IXCs themselves as well as other RBOCs are or soon will be competing with Bell Atlantic within the Bell Atlantic region. IXCs, which already are established competitors for a

variety of services are now forming new alliances to reduce access charges and are beginning to enter the local market directly. Currently, there are over 125 IXCs in the Bell Atlantic region.

16. AT&T announced its intent to merge with McCaw Cellular, the nation's largest cellular carrier, and recently formed AT&T Personal Communications Systems, a new operating unit. "Analysts expect AT&T will find ways to link cellular customers directly to its long-distance network bypassing the local phone system, thus reducing the $14 billion a year it pays to use those lines."[17] The combined service would also give AT&T a marketing advantage over Bell Atlantic and other LECs.

17. MCI recently unveiled a plan to develop "MCI Metro", an alternative local transport network aimed first at large business customers in major metropolitan areas and later at residential customers. MCI intends to launch operations in over 20 cities, including Washington, D.C. Alone or with partners, MCI has committed $20 billion toward the creation and delivery of new services for customers, and $2 billion toward a local switching and fiber infrastructure. According to MCI's chairman and CEO, Bert Roberts, MCI intends to "attack the RBOCs' local markets through our MCI Metro company."[18]

18. In the Bell Atlantic region, Access Transmission Systems, Inc. ("ATS"), an MCI subsidiary, has already filed an

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[17] "AT&T + McCaw = One Tough AT&T", Business Week, August 30, 1993 at 29.

[18] "The Enduring Myth of the Local Bottleneck," March 14, 1994, at iv.

application as a competing telephone company in Virginia. MCI also jointly markets its services with a variety of local cable companies in the Bell Atlantic region. For example, attached hereto as Exhibit 2, is a joint marketing flyer promoting MCI and Cable TV Arlington, now a Southwestern Bell subsidiary.

19. MCI has also formed an alliance with British Telecom to provide additional experience and capital. MCI and British Telecom will pay $1.3 billion for 17 percent of Nextel, which is rapidly developing a nationwide digital wireless system. The co-owner of Nextel is Comcast, which provides yet another link into Bell Atlantic markets. The service is expected to be integrated with networkMCI, the company's multimedia communications venture. The plan is to provide a digital wireless network that reaches "95% of the country by the end of 1996."[19] "What MCI wants is a direct connection to its customers so that it has the ability to carry intelligent network services right down to the end users."[20]

20. RBOC and IXC alliances with cable companies also facilitate competition in the Bell Atlantic region. For example:

a. U.S. WEST acquired 25% of Time Warner Entertainment, which owns Time Warner Cable. The two companies will jointly share in the design, implementation and direction of full service networks. U.S. WEST and Time Warner are very clear on their intent to offer telephony as part of the full service

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[19] "Telephony's Competitive Landscape", Telephony, May 2, 1994 at 79.

[20] *Id.* at 79-82.

networks they will be providing nationwide. In the Bell Atlantic region, Time Warner operates cable systems in Pennsylvania, Virginia, and West Virginia and has nearly half a million subscribers.

b. Southwestern Bell, which already operates a major cellular franchise in the Baltimore/Washington metropolitan area, purchased cable franchises in Arlington County, Virginia and Montgomery County, Maryland from Hauser Communications. This acquisition makes it possible for Southwestern Bell to combine its cellular and cable properties to gain access to a large number of Bell Atlantic local service customers. The Arlington County and Montgomery franchises pass nearly 400,000 households and provide a base to serve the business community of the Washington metropolitan area. As noted above, the Arlington franchise is already jointly marketing its services with MCI.

c. Bell Canada agreed to purchase a 30% share in Jones Intercable, which operates in Virginia, New Jersey and Maryland. Ironically, as a foreign company operating in the United States, Bell Canada will be competing in key Bell Atlantic service areas without facing the same Commission and federal court restrictions that confront Bell Atlantic. In addition, Jones has agreed with MCI to offer telephone service to selected cable customers in Northern Virginia. The local leg of the incoming and outgoing long distance calls will go over the cable plant.

D. **Power Utilities**

21. Electric and gas utilities have an established